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C.R.P.No.1811 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1811 of 2019

M/s.Leo Educational Society

Rep. By its Secretary, V.G.Jayaraman

Having Office at No.1513E

Annanagar West Extn.,

Chennai-600 101.

(Amended vide Court order dated 10.10.2023 made in
CMP.No.23160/2023 in CRP.No.1811/2019

... Petitioner

Vs.

1.M/s.Punjab National Bank,

Anna Nagar Branch,

Rep by its Branch Manager

No. 1513E, East Main road,

Annanagar West Extn.,

Chennai-600 101.

2. M/s.Punjab National Bank

Chennai North Circle,

Rep. By its Assistant General Manager

Spencers Towers

2nd floor, Mount road

Chennai-600 002.



C.R.P.No.1811 of 2019

3.M/s.Punjab National Bank
Rep. By its Managing Director
Plot No.4, Sector-10, Dwarka,
New Delhi-110 075.

(Amended vide Court order dated 10.10.2023 in
CMP.No.23160/2023 in CRP.No.1811/2019

...Respondents

PRAYER: Civil Revision Petition filed under Section 25 of Tamil Nadu Building (Lease and Rent) Control Act, 1960, praying to set aside the judgment and decree passed by the learned VIII Small Causes Judge in RCA.No.578 of 2017 dated 10.01.2019 and confirming the judgment and decree passed by the XVI Small Causes Court, Chennai in RCOP.No.378 of 2015 dated 24.11.2016.

For Petitioner	: Mr.T.Saravanan
For respondent	: Mr.P.S.Ganesh

ORDER

The Civil Revision Petition is filed by the petitioner/landlord aggrieved by the order fixing fair rent for the demised premises at the rate of Rs.71,782/- per month.

2.The petitioner herein is the landlord of the demised premises and he filed a petition for fixation of fair rent. The learned Rent Controller fixed the



fair rent at the rate of Rs.71,782/- per month and the same was affirmed by the

Rent Control Appellate Authority. Aggrieved by the same, the petitioner is

before this Court.

3.The learned counsel for the petitioner submitted that learned Rent Controller, over looking Ex.P6, sale deed relied on by the petitioner, fixed the land value at Rs.1,50,00,000/-(Rupees one crore and fifty lakhs only) per ground as against the value of Rs.2,60,00,000/- (Rupees two crore and sixty lakhs only) mentioned in the sale deed. The learned counsel submitted that absolutely there is nothing on record to over look Ex.P6, sale deed marked by the petitioner through his Engineer who was examined as P.W.2. It is also submitted by the learned counsel that property covered by Ex.P6, sale deed is having similar locational advantages and the learned Rent Controller observed that property covered by Ex.P6 is far away from the petition mentioned building without any basis. Therefore, the learned counsel submitted that the land value shall be taken as Rs.2,60,00,000/- as per the Ex.P6 and the fair rent has to be proportionately increased.



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4. The learned counsel appearing for the respondent/tenant submitted that petitioner has not proved that the property covered by Ex.P6 is having similar locational advantages and hence, the learned Rent Controller rightly discarded the same and fixed the land value at Rs.1,50,00,000/-. The learned counsel further submitted that it is the duty of the landlord seeking fixation of fair rent to prove the market value of the land and in the case on hand, the petitioner failed to prove the same by leading any acceptable evidence. In support of his contentions, the learned counsel for the respondent relied on following judgments :-

1. A.V.Gopalakrishnan Vs O.L.V.R.Paramanandam reported in 2007 (3) CTC 668.

2. A.Emberumanar and another Vs K.Raghava, Sole proprietor, Pratap Art Productions reported in 1987 TLNJ 307.

3. Sakthi & Co., through its Partner, Veeranan Vs Shree Desigachary reported in 2006 (2) CTC 433.

4. 1. Central bank of India , rep., by its Regional



Manager, Trichy 2. The Branch Manager, Central Bank of India, Villupuram Vs A.Koteeswaran and another reported in 2007 1 LW 700.

5. The main dispute arises for consideration in this civil revision petition pertains to the fixation of land value by the learned Rent Controller. Though petitioner/landlord marked Ex.P6, sale deed to show that the land value was Rs.2,60,00,000/- per ground, the learned Rent Controller discarded the same on the ground that sample sale deed relied on by the petitioner's engineer, P.W.2 is relating to a property far away from the petition mentioned property. The Ex.P6, sale deed was produced by petitioner through his Engineer who was examined as P.W.2. A perusal of evidence of P.W.2 would suggest that nowhere in his evidence, he deposed that the property covered by Ex.P6 is located near petition mentioned property and the same is having very same locational advantages. It is true that the respondent/tenant also failed to cross-examine the P.W.2 with regard to the distance factor and also locational advantages. However, in a petition for fixation of fair rent, it is the burden of the landlord to prove the actual market value of the property. In the case on



hand, in order to prove the market value, the petitioner/landlord relied on Ex.P6, sale deed. However, there is no evidence available on record to suggest the property covered by Ex.P6 is located very near to the demised premises and it is also having similar locational advantages. In such circumstances, based on Ex.P6 alone, this Court cannot come to the conclusion that market value of the land shall be fixed as Rs.2,60,00,000/- as contended by the petitioner. The learned Rent Controller, after discarding Ex.P6 on the ground that it is relating to a property which is located far away from the petitioner mentioned property, proceeded to fix the market value of the land at Rs.1,50,00,000/- However, on what basis, learned Rent Controller came to the conclusion that property covered by the Ex.P6 is located far away from the demised premises is not clear. Further, the market value fixed by the learned Rent Controller is also not supported by any concrete evidence. Hence, the order passed by Rent Controller as well as Appellate authority are liable to be set aside and the matter is remanded back to the file of Rent Controller for consideration afresh.

6. In any event, the respondent/tenant has not questioned the fixation of fair rent by filing any appeal or revision. Therefore, the respondent is bound to



pay the fair rent fixed by the Courts below, till fair rent is re-fixed by Rent Controller after remand. Though the petitioner produced Ex.P6 to show the value of the land was Rs.2,60,00,000/- at the relevant point of time, in the absence of any evidence to show that the property covered by Ex.P6 was very near to the demised premises and having same locational advantages, this Court feels that it would be appropriate to give one more opportunity to the parties to lead evidence with regard to the locational advantages and also market value of the property. In such circumstances, the order passed by the Courts below is set aside with the liberty to both the parties to lead evidence with regard to the actual market value of the demised property. Hence, the matter is remanded back to the file of learned Rent Controller with direction to fix the market value of the land after giving sufficient opportunity to both the parties and endeavour shall be made by the learned Rent Controller to dispose of the matter as expeditiously as possible.

7. In view of the fact that the respondent has not questioned the fixation of fair rent by filing any appeal or revision, even though the order impugned in this revision is set aside and the matter is remanded back to the file of learned



C.R.P.No.1811 of 2013

Rent Controller, the respondent is directed to pay rent at the rate of Rs.71,782/- per month as fixed by the learned Rent Controller earlier till the disposal of the Original Application after remand.

8. The rent paid by the tenant by virtue of this order shall be adjusted with the future rent after fixation of fair rent by the learned Rent Controller afresh.

9. With these observations, this Civil Revision Petition stands allowed and the matter is remitted to the file of Rent Controller. No costs.

23.02.2024

Index : Yes / No
Internet : Yes / No
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To

1. The learned VIII Judge, Small Causes Court, Chennai.
2. The learned XVI Judge, Small Causes Court, Chennai.



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C.R.P.No.1811 of 2019

S.SOUNTHAR, J.

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